

§11-270-32 Establishing permit conditions. (a) In addition to conditions required in all permits (section 11-270-30), the director shall establish conditions, as required on a case-by-case basis, in permits under section 11-270-50 (duration of permits), subsection 11-270-33(a) (schedules of compliance), and section 11-270-31 (monitoring).

(b)(1) Each hazardous waste management permit shall include permit conditions necessary to achieve compliance with HRS chapter 342J and the rules adopted thereunder, including each of the applicable requirements specified in chapters 11-264 and 11-266 through 11-268. In satisfying this provision, the director may incorporate applicable requirements of chapters 11-264 and 11-266 through 11-268 directly into the permit or establish other permit conditions that are based on these chapters.

(2) Each permit issued under HRS section 342J-5 shall contain terms and conditions as the director determines necessary to protect human health and the environment.

(c) An applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. Section 11-271-14 (reopening of comment period) provides a means for reopening EPA or State permit proceedings at the discretion of the director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in section 11-270-41.

(d) New or reissued permits, and to the extent allowed under section 11-270-41, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this section and in section 11-270-31.

(e) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable rules or requirements must be given in the permit. [Eff 6/18/94; comp

1 (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.32)

§11-270-33 Schedules of compliance. (a) The permit may, when appropriate, specify a schedule of compliance leading to compliance with HRS chapter 342J and the rules adopted thereunder.

(1) Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible.

(2) Interim dates. Except as provided in paragraph

(b)(1)(ii), if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(i) The time between interim dates shall not exceed one year.

(ii) If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(3) Reporting. The permit shall be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee shall notify the director in writing, of its compliance or noncompliance with the interim or final requirements.

(b) Alternative schedules of compliance. A hazardous waste management permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the director may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely

- manner if the decision is to continue conducting regulated activities;
 - (ii) One schedule shall lead to timely compliance with applicable requirements;
 - (iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;
 - (iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
- (4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the director, such as resolution of the board of directors of a corporation. [Eff 6/18/94; comp _____] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.33)

SUBCHAPTER D

CHANGES TO PERMIT

§11-270-40 Transfer of permits. (a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under subsection 11-270-40(b) or paragraph 11-270-41(b)(2)) to identify the new permittee and incorporate such other requirements as may be necessary under HRS chapter 342J or the rules adopted thereunder.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the director in accordance with section 11-270-42. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the director. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of chapter 11-264, subchapter H (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of that subchapter. The new owner or operator must demonstrate compliance with subchapter H requirements within six months of the date of the change of ownership or operational

control of the facility. Upon demonstration to the director by the new owner or operator of compliance with subchapter H, the director shall notify the old owner or operator that he or she no longer needs to comply with subchapter H as of the date of demonstration. [Eff 6/18/94; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.40)

§11-270-41 Modification or revocation and reissuance of permits. When the director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see section 11-270-30), receives a request for revocation and reissuance under section 11-271-5 or conducts a review of the permit file), he or she may determine whether one or more of the causes listed in subsections (a) and (b) of this section for modification, or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of subsection (c) of this section, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See paragraph 11-271-5(c)(2).) If cause does not exist under this section, the director shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the director shall approve or deny the request according to the procedures of section 11-270-42. Otherwise, a draft permit must be prepared and other procedures in chapter 11-271 followed.

- (a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees.
 - (1) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.
 - (2) Information. The director has received information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.
 - (3) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of

- new or amended standards or regulations, or by judicial decision after the permit was issued.
- (4) Compliance schedules. The director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.
 - (5) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the director under subsection 11-270-50(d), the director shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in chapters 11-271, 11-260 through 11-266, and 11-270.
 - (b) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:
 - (1) Cause exists for termination under section 11-270-43, and the director determines that modification or revocation and reissuance is appropriate.
 - (2) The director has received notification (as required in the permit, see paragraph 11-270-30(1)(3)) of a proposed transfer of the permit.
 - (c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance. [Eff 6/18/94; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.41)

§11-270-42 Permit modification at the request of the permittee. (a) Class 1 modifications.

- (1) Except as provided in paragraph (a)(2), the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:
 - (i) The permittee must notify the director concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by sections 11-270-13 through 11-270-21,

- 11-270-62, and 11-270-63.
- (ii) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the director in accordance with subparagraph 11-271-10(c)(1)(ix), and the appropriate units of State and County government, as specified in subparagraph 11-271-10(c)(1)(x). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior director approval, the notification must be made within ninety calendar days after the director approves the request.
 - (iii) Any person may request the director to review, and the director may for cause reject, any Class 1 modification. The director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.
- (2) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the director.
 - (3) For a Class 1 permit modification, the permittee may elect to follow the procedures in subsection 11-270-42(b) for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the director of this decision in the notice required in paragraph 11-270-42(b)(1).
- (b) Class 2 modifications.
 - (1) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the director that:
 - (i) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
 - (ii) Identifies that the modification is a Class 2 modification;
 - (iii) Explains why the modification is needed; and
 - (iv) Provides the applicable information required by sections 11-270-13 through 11-270-21, 11-270-62, and 11-270-63.
 - (2) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of State and local government as specified in subparagraph 11-271-10(c)(1)(x) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published

within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

- (i) Announcement of a sixty day comment period, in accordance with paragraph 11-270-42(b)(5), and the name and address of a department contact to whom comments must be sent;
 - (ii) Announcement of the date, time, and place for a public meeting held in accordance with paragraph 11-270-42(b)(4);
 - (iii) Name and telephone number of the permittee's contact person;
 - (iv) Name and telephone number of a department contact person;
 - (v) Location where copies of the modification request and any supporting documents can be viewed and copied; and
 - (vi) The following statement: ``The permittee's compliance history during the life of the permit being modified is available from the Department of Health contact person.''
- (3) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.
 - (4) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in paragraph (b)(2) and no later than fifteen days before the close of the sixty day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.
 - (5) The public shall be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department contact identified in the public notice.
 - (6) (i) No later than ninety days after receipt of the modification request, the director must:
 - (A) Approve the modification request, with or without changes, and modify the permit accordingly;
 - (B) Deny the request;
 - (C) Determine that the modification request must follow the procedures in subsection 11-270-42(c) for Class 3 modifications for the following reasons:
 - (1) There is significant public concern about the proposed modification; or
 - (2) The complex nature of the change

- requires the more extensive procedures of Class 3.
- (D) Approve the request, with or without changes, as a temporary authorization having a term of up to one-hundred and eighty days, or
 - (E) Notify the permittee that he or she will decide on the request within the next thirty days.
- (ii) If the director notifies the permittee of a thirty day extension for a decision, the director must, no later than one-hundred and twenty days after receipt of the modification request:
- (A) Approve the modification request, with or without changes, and modify the permit accordingly;
 - (B) Deny the request; or
 - (C) Determine that the modification request must follow the procedures in subsection 11-270-42(c) for Class 3 modifications for the following reasons:
 - (1) There is significant public concern about the proposed modification; or
 - (2) The complex nature of the change requires the more extensive procedures of Class 3.
 - (D) Approve the request, with or without changes, as a temporary authorization having a term of up to one-hundred and eighty days.
- (iii) If the director fails to make one of the decisions specified in subparagraph (b)(6)(ii) by the one-hundred and twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one-hundred and eighty days, without formal department action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of chapter 11-265. If the director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in subparagraph (b)(6)(i), (ii), or (iii), such action cancels the temporary or automatic authorization.
- (iv) (A) In the case of an automatic authorization under subparagraph (b)(6)(iii), or a temporary authorization under clauses (b)(6)(i)(D) or (b)(6)(ii)(D), if the director has not made a final approval or

denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

- (1) The permittee has been authorized temporarily to conduct the activities described in the permit modification request, and
 - (2) Unless the director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.
- (B) If the owner/operator fails to notify the public by the date specified in clause (b)(6)(iv)(A), the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.
- (v) Except as provided in clause (b)(6)(vii), if the director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under section 11-270-41 or section 11-270-42. The activities authorized under this subsection must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of chapter 11-265.
- (vi) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the director must consider all written comments submitted to the department during the public comment period and must respond in writing to all significant comments in his or her decision.
- (vii) With the written consent of the permittee, the director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or

- for reclassifying a modification as a Class 3.
- (7) The director may deny or change the terms of a Class 2 permit modification request under subparagraphs (b)(6)(i) through (iii) for the following reasons:
 - (i) The modification request is incomplete;
 - (ii) The requested modification does not comply with the appropriate requirements of chapter 11-264 or other applicable requirements; or
 - (iii) The conditions of the modification fail to protect human health and the environment.
 - (8) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the director establishes a later date for commencing construction and informs the permittee in writing before day sixty.
 - (c) Class 3 modifications.
 - (1) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the director that:
 - (i) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
 - (ii) Identifies that the modification is a Class 3 modification;
 - (iii) Explains why the modification is needed; and
 - (iv) Provides the applicable information required by sections 11-270-13 through 11-270-22, 11-270-62, 11-270-63, and 11-270-66.
 - (2) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of State and county government as specified in paragraph 11-271-10(c)(1)(x) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:
 - (i) Announcement of a sixty day comment period, and a name and address of a department contact to whom comments must be sent;
 - (ii) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with paragraph 11-270-42(c)(4);
 - (iii) Name and telephone number of the permittee's contact person;
 - (iv) Name and telephone number of a department contact person;

- (v) Location where copies of the modification request and any supporting documents can be viewed and copied; and
- (vi) The following statement: ``The permittee's compliance history during the life of the permit being modified is available from the Department of Health contact person.''
- (3) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.
- (4) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in paragraph (c)(2) and no later than fifteen days before the close of the sixty day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.
- (5) The public shall be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department contact identified in the notice.
- (6) After the conclusion of the sixty day comment period, the director must grant or deny the permit modification request according to the permit modification procedures of chapter 11-271. In addition, the director must consider and respond to all significant written comments received during the sixty day comment period.
- (d) Other modifications.
- (1) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.
- (2) The director shall make the determination described in paragraph (d)(1) as promptly as practicable. In determining the appropriate class for a specific modification, the director shall consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:
 - (i) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or

- reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the director may require prior approval.
- (ii) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to,
 - (A) Common variations in the types and quantities of the wastes managed under the facility permit,
 - (B) Technological advancements, and
 - (C) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.
 - (iii) Class 3 modifications substantially alter the facility or its operation.
- (e) Temporary authorizations.
- (1) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one-hundred and eighty days.
 - (2) (i) The permittee may request a temporary authorization for:
 - (A) Any Class 2 modification meeting the criteria in subparagraph (e)(3)(ii), and
 - (B) Any Class 3 modification that meets the criteria in clause (e)(3)(ii)(A) or (B); or that meets the criteria in clauses (e)(3)(ii)(C) through (E) and provides improved management or treatment of a hazardous waste already listed in the facility permit.
 - (ii) The temporary authorization request must include:
 - (A) A description of the activities to be conducted under the temporary authorization;
 - (B) An explanation of why the temporary authorization is necessary; and
 - (C) Sufficient information to ensure compliance with chapter 11-264 standards.
 - (iii) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the director and to appropriate units of State and local governments as specified in paragraph 11-271-10(c)(1)(x). This notification must be made within seven days of submission of the authorization request.

- (3) The director shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director must find:
 - (i) The authorized activities are in compliance with the standards of chapter 11-264.
 - (ii) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
 - (A) To facilitate timely implementation of closure or corrective action activities;
 - (B) To allow treatment or storage in tanks or containers, or in containment buildings in accordance with chapter 11-268;
 - (C) To prevent disruption of ongoing waste management activities;
 - (D) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or
 - (E) To facilitate other changes to protect human health and the environment.
- (4) A temporary authorization may be reissued for one additional term of up to one-hundred and eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:
 - (i) The reissued temporary authorization constitutes the director's decision on a Class 2 permit modification in accordance with clause (b)(6)(i)(D) or (b)(6)(ii)(D), or
 - (ii) The director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of subsection (c) are conducted.

(f) Public notice of permit modification decisions. (1) The director shall notify persons on the facility mailing list and appropriate units of the State and county government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The director shall also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under subparagraph 11-270-42(b)(6)(iii) or (v).

(2) [Reserved]

(3) [Reserved]

(g) Newly regulated wastes and units.

(1) The permittee is authorized to continue to manage wastes listed or identified as hazardous under chapter 11-261, or to continue to manage hazardous waste in

units newly regulated as hazardous waste management units, if:

- (i) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;
 - (ii) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;
 - (iii) The permittee is in compliance with the applicable standards of chapters 11-265 and 11-266;
 - (iv) The permittee also submits a complete Class 2 or 3 modification request within one-hundred and eighty days of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards established pursuant to chapter 342J, HRS or the rules adopted thereunder;
 - (v) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of chapter 11-265 for groundwater monitoring and financial responsibility on the date twelve months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this section.
- (2) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.
- (h) Military hazardous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:
- (1) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements;
 - (2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and
 - (3) The permittee submits a complete Class 2 modification

request within 180 days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

(i) Permit modification list. The director must maintain a list of all approved permit modifications and must publish a notice once a year in a state-wide newspaper that an updated list is available for review.

Appendix I to section 11-270-42 -- Classification of Permit Modification

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance.	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the director.	¹ 1
b. Extension of final compliance date.	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director.	¹ 1
7. Changes in ownership or operational control of a facility, provided the procedures of subsection 11-270-40(b) are followed.	¹ 1
B. General Facility Standards	
1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations.	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.	¹ 1
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.	¹ 1
d. Other changes.	2

2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations.	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record.	1
4. Changes in frequency or content of inspection schedules.	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees.	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures).	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.	1
c. Removal of equipment from emergency equipment list.	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications	1
b. Other changes	2
Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	

C. Ground-Water Protection

1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system.	2
b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the director.	¹ 1
3. Changes in statistical procedure for	

- determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the director. ¹¹
4. Changes in point of compliance. ¹²
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):
- a. As specified in the groundwater protection standard. ³
 - b. As specified in the detection monitoring program ²
6. Changes to a detection monitoring program as required by subsection 11-264-98(j), unless otherwise specified in this appendix ²
7. Compliance monitoring program:
- a. Addition of compliance monitoring program as required by paragraph 11-264-98(h)(4) and section 11-264-99 ³
 - b. Changes to a compliance monitoring program as required by subsection 11-264-99(k), unless otherwise specified in this appendix ²
8. Corrective action program:
- a. Addition of a corrective action program as required by paragraph 11-264-99(i)(2) and section 11-264-100 ³
 - b. Changes to a corrective action program as required by subsection 11-264-100(h), unless otherwise specified in this Appendix ²

D. Closure

1. Changes to the closure plan:
- a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the director ¹¹
 - b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the director ¹¹
 - c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the director ¹¹
 - d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the director ¹¹
 - e. Changes in approved closure plan resulting

from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under subsections 11-264-113(d) and (e)	2
2. Creation of a new landfill unit as part of closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments	3
b. Incinerators	3
c. Waste piles that do not comply with subsection 11-264-250(c)	3
d. Waste piles that comply with subsection 11-264-250(c)	2
e. Tanks or containers (other than specified below)	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the director	11
E. Post-Closure	
1. Changes in name, address, or phone number of contact in post-closure plan	1
2. Extension of post-closure care period	2
3. Reduction in the post-closure care period	3
4. Changes to the expected year of final closure, where other permit conditions are not changed	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure	2
F. Containers	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	3
b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	2
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of ``use of practically available technology	

that yields the greatest environmental benefit'' contained in subparagraph 11-268-8(a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) ¹¹

2:

a. Modification of a container unit without increasing the capacity of the unit ²

b. Addition of a roof to a container unit without alteration of the containment system ¹

3. Storage of different wastes in containers, except as provided in (F)(4) below:

a. That require additional or different management practices from those authorized in the permit ³

b. That do not require additional or different management practices from those authorized in the permit ²

Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage or treatment of different wastes in containers:

a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in subparagraph 11-268-8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) ¹

b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) ¹¹

G. Tanks

- 1:
 - a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below 3
 - b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below 2
 - c. Addition of a new tank that will operate for more than ninety days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation 2
 - d. After prior approval of the director, addition of a new tank that will operate for up to ninety days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation 11
 - e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in subparagraph 11-268-8(a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 11
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1
 - The capacity difference is no more than 1500 gallons,
 - The facility's permitted tank capacity is not increased, and
 - The replacement tank meets the same conditions in the permit.
4. Modification of a tank management practice. 2

5. Management of different wastes in tanks:
 - a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below 3
 - b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d) 2
 - c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in subparagraph 11-268-8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 11
 - d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 1

Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3
2. Replacement of a surface impoundment unit 3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system 2
4. Modification of a surface impoundment

- management practice 2
- 5. Treatment, storage, or disposal of different wastes in surface impoundments:
 - a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 3
 - b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2
 - c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in subparagraph 11-269-8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in paragraph 11-268-5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 1
 - d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in paragraph 11-268-5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 1
- 6. Modifications of unconstructed units to comply with sections 11-264-221(c), 11-264-222, 11-264-223, and 11-264-226(d) *1
- 7. Changes in response action plan:
 - a. Increase in action leakage rate 3
 - b. Change in a specific response reducing its frequency or effectiveness 3
 - c. Other changes 2

Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes

I. Enclosed Waste Piles. For all waste piles except those complying with subsection 11-264-250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to

waste piles complying with subsection 11-264-250(c).

1. Modification or addition of waste pile units:
 - a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity 3
 - b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2
2. Modification of waste pile unit without increasing the capacity of the unit 2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1
4. Modification of a waste pile management practice 2
5. Storage or treatment of different wastes in waste piles:
 - a. That require additional or different management practices or different design of the unit 3
 - b. That do not require additional or different management practices or different design of the unit 2
6. Conversion of an enclosed waste pile to a containment building unit. 2

Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

1. Modification or addition of landfill units that result in increasing the facility's disposal capacity 3
2. Replacement of a landfill 3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2
5. Modification of a landfill management practice 2
6. Landfill different wastes:
 - a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3

- b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 2
 - c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of ``use of practically available technology that yields the greatest environmental benefit'' contained in subparagraph 11-268-8(a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in paragraph 11-268-5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 1
 - d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in paragraph 11-268-5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028) 1
 - 7. Modifications of unconstructed units to comply with sections 11-264-251(c), 11-264-252, 11-264-253, 11-264-254(c), 11-264-301(c), 11-264-302, 11-264-303(c), and 11-264-304 *1
 - 8. Changes in response action plan:
 - a. Increase in action leakage rate 3
 - b. Change in a specific response reducing its frequency or effectiveness 3
 - c. Other changes 2
- Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes.
- K. Land Treatment
- 1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3
 - 2. Modification of run-on control system 2
 - 3. Modify run-off control system 3
 - 4. Other modifications of land treatment unit component specifications or standards required in permit 2
 - 5. Management of different wastes in land treatment units:

a. That require a change in permit operating conditions or unit design specifications	3
b. That do not require a change in permit operating conditions or unit design specifications	2
Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes	
6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application	3
b. Decrease rate of waste application	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2
8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to paragraph 11-264-278(g)(2)	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the	

director's prior approval has been received ¹¹
16. Changes to allow a second land treatment
demonstration to be conducted when the results of
the first demonstration have not shown the
conditions under which the wastes can be treated
completely, provided the conditions for the second
demonstration are substantially the same as the
conditions for the first demonstration and have ¹¹
received the prior approval of the director
17. Changes to allow a second land treatment
demonstration to be conducted when the results of
the first demonstration have not shown the
conditions under which the wastes can be treated
completely, where the conditions for the second
demonstration are not substantially the same as
the conditions for the first demonstration ³
18. Changes in vegetative cover requirements for
closure ²

L. Incinerators, Boilers, and Industrial Furnaces:

1. Changes to increase by more than 25% any of the
following limits authorized in the permit: A
thermal feed rate limit, a feedstream feed rate
limit, a chlorine/chloride feed rate limit, a
metal feed rate limit, or an ash feed rate limit.
The director will require a new trial burn to
substantiate compliance with the regulatory
performance standards unless this demonstration
can be made through other means. ³

2. Changes to increase by up to 25% any of the
following limits authorized in the permit: A
thermal feed rate limit, a feedstream feed rate
limit, a chlorine/chloride feed rate limit, a
metal feed rate limit, or an ash feed rate limit.
The director will require a new trial burn to
substantiate compliance with the regulatory
performance standards unless this demonstration
can be made through other means. ²

3. Modification of an incinerator, boiler, or
industrial furnace unit by changing the internal
size or geometry of the primary or secondary
combustion units, by adding a primary or secondary
combustion unit, by substantially changing the
design of any component used to remove HCl/Cl₂,
metals, or particulate from the combustion gases,
or by changing other features of the incinerator,
boiler, or industrial furnace that could affect
its capability to meet the regulatory performance

standards. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means. 3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards. 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means. 3

b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls 3

c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. Burning different wastes:

a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means. 3

b. If the waste does not contain a POHC that is more difficult to burn than authorized by

the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit. 2

Note: See subsection 11-270-42(g) for modification procedures to be used for the management of newly listed or identified wastes

7. Shakedown and trial burn:

- a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2
- b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director. 11
- c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the director 11
- d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the director 11

8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit 1

M. Containment Buildings.

1. Modification or addition of containment building units:

- a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3
- b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. 2
- 2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2
- 3. Replacement of a containment building with a containment building that meets the same design standards provided:
 - a. The unit capacity is not increased. 1
 - b. The replacement containment building meets the same conditions in the permit. 1
- 4. Modification of a containment building management practice. 2

5. Storage or treatment of different wastes in containment buildings:

- a. That require additional or different management practices. 3
- b. That do not require additional or different management practices. 2

N. Corrective Action:

- 1. Approval of a corrective action management unit pursuant to section 11-264-552. 3
- 2. Approval of a temporary unit or time extension for a temporary unit pursuant to section 11-264-553. 2

FOOTNOTE: ¹Class 1 modifications requiring prior department approval."

[Eff 6/18/94; am 3/13/99; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.42)

§11-270-43 Termination of permits. (a) The following are causes for terminating a permit during its term, or for denying a permit renewal application:

- (1) Noncompliance by the permittee with any condition of the permit;
- (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(b) The director shall follow the applicable procedures in chapter 11-271 in terminating any permit under this section.

[Eff 6/18/94; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.43)

SUBCHAPTER E

EXPIRATION AND CONTINUATION OF PERMITS

§11-270-50 Duration of permits. (a) Hazardous waste management permits shall be effective for a fixed term not to exceed five years.

§11-270-50

(b) Except as provided in section 11-270-51, the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

(c) The director may issue any permit for a duration that is less than the full allowable term under this section.

(d) Each permit for a land disposal facility shall be reviewed by the director three years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in section 11-270-41. [Eff 6/18/94; comp
] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp:
40 C.F.R. §270.50)

§11-270-51 Continuation of expiring permits. (a) The conditions of an expired permit continue in force until the effective date of a new permit (see section 11-271-15) if:

(1) The permittee has submitted a timely application under section 11-270-14 and the applicable provisions in sections 11-270-15 through 11-270-29 which is a complete (under subsection 11-270-10(c)) application for a new permit; and

(2) The director through no fault of the permittee, does not issue a new permit with an effective date under section 11-271-15 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(b) Permits continued under this section remain fully effective and enforceable.

(c) When the permittee is not in compliance with the conditions of the expiring or expired permit, the director may choose to do any or all of the following:

(1) Initiate enforcement action based upon the permit which has been continued;

(2) Issue a notice of intent to deny the new permit under section 11-271-6. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(3) Issue a new permit under chapter 11-271 with appropriate conditions; or

(4) Take other actions authorized by these rules.

(d) [Reserved] [Eff 6/18/94; comp
] (Auth:
HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.51)

SUBCHAPTER F

SPECIAL FORMS OF PERMITS

§11-270-60 Permits by rule. Notwithstanding any other provision of this chapter or chapter 11-271, the following shall be deemed to have a hazardous waste management permit if the conditions listed are met:

- (a) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts hazardous waste for ocean disposal, if the owner or operator:
 - (1) Has a permit for ocean dumping issued under 40 CFR part 220 (Ocean Dumping, authorized by the federal Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1420 et seq.);
 - (2) Complies with the conditions of that permit; and
 - (3) Complies with the following hazardous waste regulations:
 - (i) Section 11-264-11, Identification number;
 - (ii) Section 11-264-71, Use of manifest system;
 - (iii) Section 11-264-72, Manifest discrepancies;
 - (iv) Subsection 11-264-73(a) and paragraph 11-264-73(b)(1), Operating record;
 - (v) Section 11-264-75, Biennial report; and
 - (vi) Section 11-264-76, Unmanifested waste report.
- (b) Injection wells. The owner or operator of an injection well disposing of hazardous waste, if the owner or operator:
 - (1) Has a permit for underground injection issued under 40 CFR Part 144 or 145; and
 - (2) Complies with the conditions of that permit and the requirements of 40 CFR 144.14 (requirements for wells managing hazardous waste).
 - (3) For UIC permits issued after November 8, 1984:
 - (i) Complies with section 11-264-101; and
 - (ii) Where the UIC well is the only unit at a facility which requires a hazardous waste management permit, complies with subsection 11-270-14(d).
- (c) Publicly owned treatment works. The owner or operator of a POTW which accepts for treatment hazardous waste, if the owner or operator:
 - (1) Has an NPDES permit;
 - (2) Complies with the conditions of that permit; and
 - (3) Complies with the following regulations:
 - (i) Section 11-264-11, Identification number;
 - (ii) Section 11-264-71, Use of manifest system;
 - (iii) Section 11-264-72, Manifest discrepancies;
 - (iv) Subsection 11-264-73(a) and paragraph 11-264-73(b)(1), Operating record;
 - (v) Section 11-264-75, Biennial report;
 - (vi) Section 11-264-76, Unmanifested waste report; and
 - (vii) For NPDES permits issued after November 8, 1984, section 11-264-101.
- (4) If the waste meets all federal, State, and local

- pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.
- (d) Hazardous waste management facilities operating pursuant to an unexpired EPA permit.
- (1) Upon the effective date of these rules, all hazardous waste management facilities operating pursuant to an unexpired EPA permit will be deemed to have a State permit if the facility is:
- (i) In compliance with all EPA permit conditions;
 - (ii) In compliance with all applicable provisions of HRS chapter 342J; and
 - (iii) In compliance with all applicable provisions of chapters 11-260 through 11-279.
- (2) The EPA permit will be deemed to be a State permit until:
- (i) The department either issues or denies the facility a State permit; or
 - (ii) The EPA permit expires and the permittee has not complied with the provisions in 40 CFR 270.51 (1998) or section 11-270-51; or
 - (iii) The effective date of a new State permit if the permittee has complied with the provisions in 40 CFR 270.51 (1998) or section 11-270-51 and the expired EPA permit is continued under 40 CFR 270.51 (1998) or section 11-270-51, whichever is applicable.
- (3) In order to qualify for a deemed State permit under this subsection, the owner or operator of the hazardous waste management facility must submit the EPA permit to the department with a transmittal letter indicating that the owner and operator are applying for a deemed State permit for the facility pursuant to this subsection.
- (4) Notwithstanding any provision to the contrary in section 11-270-50, an EPA permit deemed a State permit under this subsection shall expire on the expiration date of the EPA permit.
- (5) Notwithstanding any provision to the contrary, the granting of a deemed State permit by the department under this subsection shall not constitute the reissuance of a permit. [Eff 6/18/94; comp
] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.60)

§11-270-61 Emergency permits. (a) Notwithstanding any other provision of this chapter or chapter 11-271, in the event the director finds an imminent and substantial endangerment to human health or the environment the director may issue a

temporary emergency permit:

- (1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or
- (2) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.
- (b) This emergency permit:
 - (1) May be oral or written. If oral, it shall be followed in five days by a written emergency permit;
 - (2) Shall not exceed ninety days in duration;
 - (3) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;
 - (4) May be terminated by the director at any time without process if he or she determines that termination is appropriate to protect human health and the environment;
 - (5) Shall be accompanied by a public notice published under section 11-271-10(b) including:
 - (i) Name and address of the office granting the emergency authorization;
 - (ii) Name and location of the permitted HWM facility;
 - (iii) A brief description of the wastes involved;
 - (iv) A brief description of the action authorized and reasons for authorizing it; and
 - (v) Duration of the emergency permit; and
 - (6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter and chapters 11-264 and 11-266. [Eff 6/18/94; am 3/13/99; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.61)

§11-270-62 Hazardous waste incinerator permits. (a) For the purposes of determining operational readiness following completion of physical construction, the director must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness to conduct a trial burn, not to exceed seven-hundred and twenty hours operating time for treatment of hazardous waste. The director may extend the duration of this operational period once, for up to seven-hundred and twenty additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to section 11-270-42.

- (1) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions

necessary to operate in compliance with the performance standards of section 11-264-343 during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in section 11-264-345.

- (2) The director will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of section 11-264-343 based on his engineering judgment.

(b) For the purposes of determining feasibility of compliance with the performance standards of section 11-264-343 and of determining adequate operating conditions under section 11-264-345, the director must establish conditions in the permit for a new hazardous waste incinerator to be effective during the trial burn.

- (1) Applicants must propose a trial burn plan, prepared under paragraph (b)(2) with a Part B of the permit application.

- (2) The trial burn plan must include the following information:

- (i) An analysis of each waste or mixture of wastes to be burned which includes:

- (A) Heat value of the waste in the form and composition in which it will be burned.

- (B) Viscosity (if applicable), or description of the physical form of the waste.

- (C) An identification of any hazardous organic constituents listed in chapter 11-261, Appendix VIII, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in chapter 11-261, Appendix VIII, which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for the exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in section 11-260-11 and section 11-270-6, or other equivalent.

- (D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as

- incorporated by reference in section 11-260-11 and section 11-270-6, or their equivalent.
- (ii) A detailed engineering description of the incinerator for which the permit is sought including:
 - (A) Manufacturer's name and model number of incinerator (if available).
 - (B) Type of incinerator.
 - (C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.
 - (D) Description of the auxiliary fuel system (type/feed).
 - (E) Capacity of prime mover.
 - (F) Description of automatic waste feed cut-off system(s).
 - (G) Stack gas monitoring and pollution control equipment.
 - (H) Nozzle and burner design.
 - (I) Construction materials.
 - (J) Location and description of temperature, pressure, and flow indicating and control devices.
 - (iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.
 - (iv) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the director's decision under paragraph (b)(5).
 - (v) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.
 - (vi) A description of, and planned operating conditions for, any emission control equipment which will be used.
 - (vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.
 - (viii) Such other information as the director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection and the criteria in paragraph

(b)(5).

- (3) The director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection.
- (4) Based on the waste analysis data in the trial burn plan, the director will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the director based on his or her estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in chapter 11-261, subchapter D, the hazardous waste organic constituent or constituents identified in Appendix VII of that chapter as the basis for listing.
- (5) The director shall approve a trial burn plan if he or she finds that:
 - (i) The trial burn is likely to determine whether the incinerator performance standard required by section 11-264-343 can be met;
 - (ii) The trial burn itself will not present an imminent hazard to human health or the environment;
 - (iii) The trial burn will help the director to determine operating requirements to be specified under section 11-264-345; and
 - (iv) The information sought in subparagraphs (b)(5)(i) and (ii) cannot reasonably be developed through other means.
- (6) The director must send a notice to all persons on the facility mailing list as set forth in section 11-271-10(c)(1)(ix) and to the appropriate units of State and county government as set forth in section 11-271-10(c)(1)(x) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the director has issued such notice.
 - (i) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department.
 - (ii) This notice must contain:
 - (A) The name and telephone number of the applicant's contact person;
 - (B) The name and telephone number of the department's contact office;

- (C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and
 - (D) An expected time period for commencement and completion of the trial burn.
- (7) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:
- (i) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.
 - (ii) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O₂) and hydrogen chloride (HCl).
 - (iii) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.
 - (iv) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in subsection 11-264-343(a).
 - (v) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with subsection 11-264-343(b).
 - (vi) A computation of particulate emissions, in accordance with subsection 11-264-343(c).
 - (vii) An identification of sources of fugitive emissions and their means of control.
 - (viii) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.
 - (ix) A continuous measurement of carbon monoxide (CO) in the exhaust gas.
 - (x) Such other information as the director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in section 11-264-343 and to establish the operating conditions required by section 11-264-345 as necessary to meet that performance standard.
- (8) The applicant must submit to the director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in paragraph (b)(6). This submission shall be made within ninety days of completion of the trial burn, or later if approved by the director.
- (9) All data collected during any trial burn must be submitted to the director following the completion of the trial burn.
- (10) All submissions required by this subsection must be certified on behalf of the applicant by the signature

of a person authorized to sign a permit application or a report under section 11-270-11.

- (11) Based on the results of the trial burn, the director shall set the operating requirements in the final permit according to section 11-264-345. The permit modification shall proceed according to section 11-270-42.

(c) For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the director may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of section 11-264-345, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the director.

- (1) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of section 11-264-343, during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters in section 11-264-345.
- (2) The director will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of section 11-264-343 based on his engineering judgment.

(d) For the purpose of determining feasibility of compliance with the performance standards of section 11-264-343 and of determining adequate operating conditions under section 11-264-345, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with subsection 11-270-19(b) and paragraphs (b)(2) through (b)(5) and (b)(7) through (b)(10) of this section or, instead, submit other information as specified in subsection 11-270-19(c). The director must announce his or her intention to approve the trial burn plan in accordance with the timing and distribution requirements of paragraph (b)(6). The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for departmental approval of the plan and the time

period during which the trial burn would be conducted. Applicants submitting information under subsection 11-270-19(a) are exempt from compliance with sections 11-264-343 and 11-264-345 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(7), with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the director to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the director will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted. [Eff 6/18/94; am 3/13/99; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.62)

§11-270-63 Permits for land treatment demonstrations using field test or laboratory analyses. (a) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of section 11-264-272, the director may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in subsection 11-264-272(c). The permit may be issued either as a treatment or disposal permit covering only the field test or laboratory analyses, or as a two-phase facility permit covering the field tests, or laboratory analyses, and design, construction operation and maintenance of the land treatment unit.

- (1) The director may issue a two-phase facility permit if he finds that, based on information submitted in Part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.
 - (2) If the director finds that not enough information exists upon which he can establish permit conditions to attempt to provide for compliance with all of the requirements of subchapter M of chapter 11-264 or 11-265, he must issue a treatment demonstration permit covering only the field test or laboratory analyses.
- (b) If the director finds that a phased permit may be issued, he will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration clean-up activities, and any other

conditions which the director finds may be necessary under subsection 11-264-272(c). The director will include conditions in the second phase of the facility permit to attempt to meet all subchapter M requirements of chapter 11-264 or 11-265 pertaining to unit design, construction, operation, and maintenance. The director will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

- (1) The first phase of the permit will be effective as provided in subsection 11-271-15(b).
- (2) The second phase of the permit will be effective as provided in subsection (d) of this section.

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the director a certification, signed by a person authorized to sign a permit application or report under section 11-270-11, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within ninety days of completion of those tests or analyses unless the director approves a later date.

(d) If the director determines that the results of the field tests or laboratory analyses meet the requirements of section 11-264-272, he will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with chapter 11-264, subchapter M, based upon the results of the field tests or laboratory analyses.

- (1) This permit modification may proceed under section 11-270-42, or otherwise will proceed as a modification under paragraph 11-270-41(a)(2). If such modifications are necessary, the second phase of the permit will become effective only after those modifications have been made.
- (2) If no modifications of the second phase of the permit are necessary, the director will give notice of his final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in subsection 11-271-15(b). [Eff 6/18/94; comp

] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.63)

§11-270-65 Research, development, and demonstration permits. (a) The director may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under chapter 11-264 or 11-266. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

- (1) Shall provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in subsection (d), and
- (2) Shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the director deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and
- (3) Shall include such requirements as the director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the director deems necessary regarding testing and providing of information to the director with respect to the operation of the facility.

(b) For the purpose of expediting review and issuance of permits under this section, the director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in chapters 11-271 and 11-270 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

(c) The director may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

(d) Any permit issued under this section may be renewed not more than three times. Each such renewal shall be for a period of not more than one year. [Eff 6/18/94; comp]
(Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.65)

§11-270-66 Permits for boilers and industrial furnaces burning hazardous waste. (a) General. Owners and operators of new boilers and industrial furnaces (those not operating under the interim status standards of section 11-266-103) are subject to

subsections (b) through (f) of this section. Boilers and industrial furnaces operating under the interim status standards of section 11-266-103 are subject to subsection (g) of this section.

(b) Permit operating periods for new boilers and industrial furnaces. A permit for a new boiler or industrial furnace shall specify appropriate conditions for the following operating periods:

- (1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operational readiness to conduct a trial burn, not to exceed seven hundred and twenty hours operating time when burning hazardous waste, the director must establish in the Pretrial Burn Period of the permit conditions, including but not limited to, allowable hazardous waste feed rates and operating conditions. The director may extend the duration of this operational period once, for up to seven hundred and twenty additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to section 11-270-42.
 - (i) Applicants must submit a statement, with part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of sections 11-266-104 through 11-266-107 during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in subsection 11-266-102(e).
 - (ii) The director will review this statement and any other relevant information submitted with part B of the permit application and specify requirements for this period sufficient to meet the performance standards of sections 11-266-104 through 11-266-107 based on his/her engineering judgment.
- (2) Trial burn period. For the duration of the trial burn, the director must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of sections 11-266-104 through 11-266-107 and determining adequate operating conditions under subsection 11-266-102(e). Applicants must propose a trial burn plan, prepared under subsection (c) of this section, to be submitted with part B of the permit application.
- (3) Post-trial burn period.
 - (i) For the period immediately following completion of the trial burn, and only for the minimum period

sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the director to reflect the trial burn results, the director will establish the operating requirements most likely to ensure compliance with the performance standards of sections 11-266-104 through 11-266-107 based on his engineering judgment.

- (ii) Applicants must submit a statement, with part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of sections 11-266-104 through 11-266-107. This statement should include, at a minimum, restrictions on the operating requirements provided by subsection 11-266-102(e).
- (iii) The director will review this statement and any other relevant information submitted with part B of the permit application and specify requirements for this period sufficient to meet the performance standards of sections 11-266-104 through 11-266-107 based on his/her engineering judgment.
- (4) Final permit period. For the final period of operation, the director will develop operating requirements in conformance with subsection 11-266-102(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of sections 11-266-104 through 11-266-107. Based on the trial burn results, the director shall make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification shall proceed according to section 11-270-42.

(c) Requirements for trial burn plans. The trial burn plan must include the following information. The director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection:

- (1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes:
 - (i) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine/chloride, and ash;
 - (ii) Viscosity or description of the physical form of the feed stream;

- (2) An analysis of each hazardous waste, as fired, including:
 - (i) An identification of any hazardous organic constituents listed in appendix VIII, chapter 11-261, that are present in the feed stream, except that the applicant need not analyze for constituents listed in appendix VIII that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with analytical techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in section 11-260-11 and section 11-270-6, or their equivalent.
 - (ii) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in section 11-260-11 and section 11-270-6, or other equivalent.
 - (iii) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.
- (3) A detailed engineering description of the boiler or industrial furnace, including:
 - (i) Manufacturer's name and model number of the boiler or industrial furnace;
 - (ii) Type of boiler or industrial furnace;
 - (iii) Maximum design capacity in appropriate units;
 - (iv) Description of the feed system for the hazardous waste, and, as appropriate, other fuels and industrial furnace feedstocks;
 - (v) Capacity of hazardous waste feed system;
 - (vi) Description of automatic hazardous waste feed cutoff system(s);
 - (vii) Description of any air pollution control system; and
 - (viii) Description of stack gas monitoring and any pollution control monitoring systems.
- (4) A detailed description of sampling and monitoring procedures including sampling and monitoring locations in the system, the equipment to be used, sampling and

monitoring frequency, and planned analytical procedures for sample analysis.

- (5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the director's decision under paragraph (b)(2).
- (6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in sections 11-266-104 through 11-266-107.
- (7) A description of, and planned operating conditions for, any emission control equipment that will be used.
- (8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.
- (9) Such other information as the director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection and the criteria in paragraph (b)(2).
- (d) Trial burn procedures.
 - (1) A trial burn must be conducted to demonstrate conformance with the standards of sections 11-266-104 through 11-266-107 under an approved trial burn plan.
 - (2) The director shall approve a trial burn plan if he/she finds that:
 - (i) The trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of sections 11-266-104 through 11-266-107;
 - (ii) The trial burn itself will not present an imminent hazard to human health and the environment;
 - (iii) The trial burn will help the director to determine operating requirements to be specified under subsection 11-266-102(e); and
 - (iv) The information sought in the trial burn cannot reasonably be developed through other means.
 - (3) The director must send a notice to all persons on the facility mailing list as set forth in section 11-271-10(c)(1)(ix) and to the appropriate units of State and local government as set forth in section 11-271-10(c)(1)(x) announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the director has issued such notice.
 - (i) This notice must be mailed within a reasonable time period before the trial burn. An additional

notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department.

(ii) This notice must contain:

- (A) The name and telephone number of applicant's contact person;
- (B) The name and telephone number of the department contact office;
- (C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and
- (D) An expected time period for commencement and completion of the trial burn.

(4) The applicant must submit to the director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in subsection (c). This submission shall be made within ninety days of completion of the trial burn, or later if approved by the director.

(5) All data collected during any trial burn must be submitted to the director following completion of the trial burn.

(6) All submissions required by this subsection must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under section 11-270-11.

(e) Special procedures for DRE trial burns. When a DRE trial burn is required under subsection 11-266-104(a), the director will specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the director based on information including his/her estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in chapter 11-261, subchapter D, the hazardous waste organic constituent(s) identified in Appendix VII of chapter 11-261 as the basis for listing.

(f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

- (1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

- (2) When a DRE trial burn is required under subsection 11-266-104(a):
 - (i) A quantitative analysis of the trial POHCs in the hazardous waste feed;
 - (ii) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and
 - (iii) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in subsection 11-266-104(a);
- (3) When a trial burn for chlorinated dioxins and furans is required under subsection 11-266-104(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;
- (4) When a trial burn for particulate matter, metals, or HCl/Cl₂ is required under section 11-266-105, subsection 11-266-106(c) or (d), or paragraph 11-266-107(b)(2) or subsection 11-266-107(c), a quantitative analysis of the stack gas for the concentrations and mass emissions of particulate matter, metals, or hydrogen chloride (HCl) and chlorine (Cl₂), and computations showing conformance with the applicable emission performance standards;
- (5) When a trial burn for DRE, metals, or HCl/Cl₂ is required under subsections 11-266-104(a), 11-266-106(c) or (d), or paragraph 11-266-107(b)(2) or subsection 11-266-107(c), a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine/chloride;
- (6) An identification of sources of fugitive emissions and their means of control;
- (7) A continuous measurement of carbon monoxide (CO), oxygen, and where required, hydrocarbons (HC), in the stack gas; and
- (8) Such other information as the director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in sections 11-266-104 through 11-266-107 and to establish the operating conditions required by subsection 11-266-102(e) as necessary to meet those performance standards.
- (g) Interim status boilers and industrial furnaces. For the purpose of determining feasibility of compliance with the performance standards of sections 11-266-104 through 11-266-107 and of determining adequate operating conditions under section 11-266-103, applicants owning or operating existing boilers or

industrial furnaces operated under the interim status standards of section 11-266-103 must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this section or submit other information as specified in paragraph 11-270-22(a)(6). The director must announce his or her intention to approve of the trial burn plan in accordance with the timing and distribution requirements of paragraph (d)(3). The contents of the notice must include: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for departmental approval of the plan and the time periods during which the trial burn would be conducted. Applicants who submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in subsection (f) with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the director to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the director. [Eff 6/18/94; am 3/13/99; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.66)

SUBCHAPTER G

INTERIM STATUS

§11-270-70 Qualifying for interim status. (a) Any person who owns or operates an "existing HWM facility" subject to the requirement to have a hazardous waste management permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

- (1) Complied with the requirements of section 3010(a) of RCRA or HRS section 342J-6.5 pertaining to notification of hazardous waste activity; and
- (2) Complied with the requirements of section 3005 of RCRA or section 11-270-10(e) governing submission of Part A applications.

(b) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that the applicant and/or facility fails to meet the requirements of section 11-270-13, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall

specify the grounds for the department's belief that the application is deficient. The owner or operator shall have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action against the owner and/or operator of the facility, including, but not limited to, an enforcement action for operation of a facility without a permit or interim status.

(c) Subsection (a) shall not apply to any facility which has been previously denied a RCRA or hazardous waste management permit or if authority to operate the facility under RCRA or HRS section 342J-30 has been previously terminated. [Eff 6/18/94; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.70)

§11-270-71 Operation during interim status. (a) During the interim status period the facility shall not:

- (1) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;
- (2) Employ processes not specified in Part A of the permit application; or
- (3) Exceed the design capacities specified in Part A of the permit application.

(b) Interim status standards. During interim status, owners or operators shall comply with the interim status standards in chapter 11-265. [Eff 6/18/94; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.71)

§11-270-72 Changes during interim status. (a) Except as provided in subsection (b), the owner or operator of an interim status facility may make the following changes at the facility:

- (1) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal;
- (2) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the director approves the changes because:
 - (i) There is a lack of available treatment, storage,

- or disposal capacity at other hazardous waste management facilities, or
- (ii) The change is necessary to comply with a federal, State, or county requirement.
- (3) Changes in the processes for the treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a justification explaining the need for the change) and the director approves the change because:
 - (i) The change is necessary to prevent a threat to human health and the environment because of an emergency situation, or
 - (ii) The change is necessary to comply with a federal, State, or county requirement.
- (4) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of chapter 11-265, subchapter H (Financial Requirements), until the new owner or operator has demonstrated to the director that he is complying with the requirements of that subchapter. The new owner or operator must demonstrate compliance with subchapter H requirements within six months of the date of the change in ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance with subchapter H, the director shall notify the old owner or operator in writing that he no longer needs to comply with subchapter H as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.
- (5) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) of RCRA or other federal authority, by the department under HRS section 342J-36, or by a court in a judicial action brought by EPA or by the department. Changes under this paragraph are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.
- (6) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this subsection, changes listed under subsection (a) may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

- (1) Changes made solely for the purposes of complying with the requirements of section 11-265-193 for tanks and ancillary equipment.
- (2) If necessary to comply with federal, State, or county requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of section 11-265-221.
- (3) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.
- (4) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.
- (5) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) of RCRA or other federal authority, by the department under HRS section 342J-36, or by a court in a judicial proceeding brought by EPA or the department, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.
- (6) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by chapter 11-268, provided that such changes are made solely for the purpose of complying with chapter 11-268.
- (7) Addition of newly regulated units under paragraph (a)(6). [Eff 6/18/94; comp] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.72)

§11-270-73 Termination of interim status. Interim status terminates or terminated when:

- (a) Final administrative disposition of a permit application is made; or
- (b) Interim status is terminated as provided in paragraph 11-270-10(e)(5).

- (c) For owners or operators of each land disposal facility which had been granted a RCRA interim status prior to November 8, 1984, on November 8, 1985 (as provided by 40 CFR 270.73 (1998)), unless:
 - (1) The owner or operator submitted a Part B application to EPA for a RCRA permit for such facility prior to that date; and
 - (2) The owner or operator certifies that such facility is in compliance with all applicable ground-water monitoring and financial responsibility requirements.
- (d) For owners or operators of each land disposal facility which was in existence on the effective date of statutory or regulatory amendments under RCRA that render the facility subject to the requirement to have a RCRA permit and which was granted a RCRA interim status, twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:
 - (1) Submitted a Part B application to EPA for a RCRA permit for such facility before the date twelve months after the date on which the facility first becomes subject to such permit requirement; and
 - (2) Certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.
- (e) For owners or operators of any land disposal unit that is granted authority to operate under paragraph 11-270-72(a)(1), (2) or (3), on the date twelve months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable groundwater monitoring and financial responsibility requirements.
- (f) For owners and operators of each incinerator facility which had achieved RCRA interim status prior to November 8, 1984, interim status terminated on November 8, 1989 (as provided by 40 CFR 270.73 (1998)), unless the owner or operator of the facility submitted to EPA a Part B application for a RCRA permit for an incinerator facility by November 8, 1986.
- (g) For owners or operators of any facility (other than a land disposal or an incinerator facility) which had achieved RCRA interim status prior to November 8, 1984, interim status terminated on November 8, 1992 (as provided by 40 CFR 270.73 (1998)), unless the owner or operator of the facility submitted to EPA a Part B application for a RCRA permit for the facility by November 8, 1988. [Eff 6/18/94; comp]
(Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp: 40 C.F.R. §270.73)

§§11-270-74 - 11-270-100 [Reserved]

SUBCHAPTER H

APPENDICES

§11-270-101 Appendix. Appendix I entitled "Application for a Hazardous Waste Permit - Part A (January 1990)," at the end of this chapter is made a part of this chapter. [Eff 6/18/94; comp
] (Auth: HRS §§342J-4, 342J-31, 342J-35) (Imp:
None)